IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos 6590 to 6598 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SECRETARY

Versus

BHANUBEN S MOTIWALA

Appearance:

1. Special Civil Application No. 6590 of 1992

NOTICE UNSERVED for Petitioner No. 1-2

MR BS PATEL for Respondent No. 1

MR JV BHAIRAVIA for Respondent No. 1

MR PRANAV G DESAI for Respondent No. 2

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 18/08/2003

COMMON ORAL JUDGEMENT

#. All these petitions are disposed of by this common order as common question is involved in all these petitions.

#. All the petitions are filed by the Secretary of Shri Janta Kelvani Mandal Trust and the Members of Shreeji Vidhyalaya Primary School, Surat. In some of the petitions, Mr.N.K.Majmudar is appearing for the petitioners after elevation of Mr.P.B.Majmudar to the Bench of this court. In some of the cases, notice was issued to the petitioners, but so far nobody has filed appearance on their behalf. Be that as it may. In some of the cases when Mr.N.K.Majmudar is appearing by filing his appearance, then it is meaning less to issue fresh notice to the petitioners in some of the petitions wherein notices could not be served upon them. Therefore, all the matters are heard and decided by this common order.

#. Against the impugned order passed by the Primary Education Tribunal, these petitions are filed under Article 227 of the Constitution of India. After issuing notice to the other side Single Judge of this court admitted these petitions, but refused interim relief and the respondent-teachers were directed to be reinstated in service on or before 5.4.1993. Against the said order passed by the Single Judge refusing interim relief present petitioners approached the Hon'ble Apex Court by way of Special Leave to Appeal (Civil) No.7171 of 1993 to 7179 of 1993. The Hon'ble Apex Court was not inclined to entertain the petitions, therefore, all the Special Leave to Appeals were withdrawn by the present petitioners from the Hon'ble Supreme Court on 26.7.1997.

#. Learned counsel Mr.N.K.Majmudar for the petitioners at first instance submitted that in spite of his best efforts he was not able to contact the petitioners as the school itself is closed down and nobody is responding to his calls. Therefore, he was not in a position to properly assist the court. However, on the basis of the material on record available, Mr.Majmudar submitted that the learned Tribunal was wholly in error in passing an order of reinstatement of the respondent-Teachers with full back wages. According to his submission, their appointments itself were not in accordance with law because they were not fulfilling the requisite qualifications. He, therefore, submitted that the impugned order passed by the learned Tribunal in favour of all the respondent-teachers be quashed and set aside.

#. Having carefully gone through the common impugned

order passed by the learned Tribunal, I am of the considered opinion that the learned Tribunal has neither committed any error on facts or law nor committed any jurisdictional error, therefore, no interference of this court is necessary.

#. In case of Mohd. Yunus v. Mohd. Mustaqim reported in AIR 1984 SC 38 Hon'ble Supreme Court has held that `A mere wrong decision without anything more is not enough to attract the jurisdiction of the High Court under Art.227. The supervisory jurisdiction conferred on the High Courts under Art.227 of the Constitution is limited "to seeing that an inferior Court or Tribunal functions within the limits of its authority" and not to correct an error apparent on the face of the record much less an error of law. In exercising the supervisory power under Art.227, the High Court does not act as an Appellate Court or Tribunal'.

#. Considering the peculiar facts and circumstances of the case, I am of the considered opinion that no interference is warranted by this court in exercise of its jurisdiction under Article 227 of the Constitution of India.

#. In view of the above discussion, all these petitions fail and are hereby dismissed. Interim relief granted earlier stands vacated. No order as to costs.

#. At this stage, a request was made by learned counsel Mr.Bhairavia to direct the respondents to comply with the order passed by the learned Tribunal. It is made clear that if the impugned order passed by the learned Tribunal is not complied with so far, the same be complied with at the earliest.

(B.J.Shethna, J.)
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